*HON'BLE SRI JUSTICE L.NARASIMHA REDDY

+ WRIT PETITION No.23376 of 2005

-

% 16th November, 2005

R.Narender

& another

…Petitioners

And

$ The State of A.P. rep. by its,

Prl.Secretary, Education Dept.,

Hyderabad & others

…Respondents

! Counsel for the petitioners: Ms.J.Vijayalakshmi

^ Counsel for respondents : Mr.Y.Ratnakar

< Gist:

> Head Note:

? Cases referred:

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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O R D E R:

The petitioners challenge the selection process adopted by the 5th respondent, a private engineering college, hereinafter referred to as "the college", in the matter of selection to the posts of Assistant Professor, in the Departments of Science & Humanities and Mechanical Engineering, in pursuance of two

advertisements issued by it, on 16.4.2005 and 21.4.2005.

The first petitioner was appointed on consolidated basis, as Assistant Professor in Science, on 9.9.2002, and the second petitioner was appointed as Assistant Professor in Mechanical Engineering on 11.10.2004, on *ad hoc* basis. The college is affiliated to the Osmania University, the third respondent. It proposed to fill the vacancies, against which the petitioners are working, and several other posts on regular basis, in accordance with the procedure prescribed by the third respondent. Advertisements were issued on the dates referred to above. The petitioners and several others applied for it.

The petitioners state that the interviews for the posts were held on 6.8.2005 and 9.8.2005, and that they have performed well. It is alleged that the college brushed aside the recommendations of the Selection Committee, and is contemplating to appoint unqualified candidates with no experience. The college is said to have issued orders of termination to the petitioners on 12.9.2005, with a stipulation that they would come into effect, with effect from 31.10.2005.

In the counter affidavit filed on behalf of the college, it is stated that the appointment of the petitioners was purely on contractual and *ad hoc* basic, and that steps have been taken to fill the vacancies, in accordance with the norms stipulated by the University Grants Commission, Osmania University and All India Council for Technical Education. It is stated that the Selection Committees were constituted, with the representatives of the University, Government of Andhra Pradesh, etc., strictly in accordance with the relevant rules. The allegation of the petitioners, as regards the recommendations of the Selection Committee, is denied. The respective Selection Committees did not find the petitioners, up to the mark. The first petitioner is said to have been included in the wait list, whereas, the second petitioner was not found fit at all to be included, either in the selection list, or the wait list. An objection is also raised, as to the maintainability of the writ petition.

MS.J.Vijayalakshmi, learned counsel for the petitioners, submits that the college, which was accorded the approval by the A.I.C.T.E., granted permission by the State Government and affiliated to Osmania University, is very much amenable to writ jurisdiction. She contends that the qualifications held by the petitioners are far better than the required, and in fact, the correspondence between the various authorities of the college, disclose that at several stages, they were recommended for being continued. Learned counsel alleges that the college has brushed aside the recommendations of the Selection Committee. It is also urged that the selected candidates do not hold the requisite qualifications, merit and experience.

Sri Y.Ratnakar, learned counsel for the college, on the other hand, submits that the college is purely a private agency, not extended any financial or other assistance by the State or Central Government, and as such, it is not amenable to writ jurisdiction. He contends that the Selection Committee has undertaken an expert evaluation of performance of the candidates, and the college has adopted the same, without any changes or modifications. He further submits that the selected candidates have already been issued orders of appointment, way back in August 2005, and that the continuation of the petitioners up to 31.8.2005, was only with a view to ensure continuity for the semester.

An objection is raised, as to the very maintainability of the writ petition. It is not in dispute that the 5th respondent college is a private Engineering College. It is not even alleged that it is provided with any assistance in the form of grants, etc. by the State. Neither it discharges sovereign functions, nor processes any attributes of the 'State', as defined under Article 12 of the Constitution of India. It is true that a writ petition can be maintained, even against a private individual or agency, where the infraction of statutory provision is complained of. In the instant case, it is not alleged that the college has violated any provision of Act made by the Parliament or State Legislature. The complaint is mostly about the mode of selection. Therefore, the very

maintainability of the writ petition becomes seriously doubtful.

Even assuming that the writ petition is maintainable, it needs to be seen as to whether the petitioners have made out any case for interference. The petitioners did not take any objection for the steps taken by the college to select the candidates, for appointment as Assistant Professors, on regular basis. In fact, they submitted applications and were considered along with other applicants. No serious objection was raised. as to the compositions of Selection Committee. The college has placed before this Court, the copies of the resolutions passed by the respective Selection Committees, which disclose the composition of the Committees as well as their recommendations. It accords with the stipulated norms. Then the only area of controversy that remains, is about the selection process.

It is settled principle of law that a selection agency, particularly in academic institutions, must be accorded the full freedom for evaluation of merits and demerits of candidates. The court cannot act as an appellate authority, or substitute its own opinion, for that of a specialized agency. The only instances, where the selection can be interfered by the courts, are where there exist specific allegations, as to any bias or where unqualified candidates were selected. Though the petitioners have named respondents 6 and 7, who have headed the Selection Committee, nothing is stated to doubt their independence, or integrity. Vague allegations were made about the qualifications of the selected candidates. However, it is not pointed out that any of the selected candidates did not possess the prescribed qualifications. At any rate, the petitioners did not choose to implead the selected candidates, who would be immediately affected, if the selections are interfered with.

For the foregoing reasons, this Court does not find any basis to grant the relief prayed for by the petitioners. The writ petition is accordingly dismissed. There shall be no order as to costs.

(L.NARASIMHA REDDY, J)

Dt. 16th November 2005

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